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DIVISION OF
OIL, GAS AND MINING



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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(UT-08300)

UTU-66358

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No. 7001 1940 0002 6541 0723

DECISION

Mr. Craig Caldwell	:	Extension of Time to Complete
Hiko Bell Mining and Oil Co.	:	Outstanding Reclamation Work at Project
P.O. Box 1845	:	Area UTU-66358 Granted
Vernal, Utah 84078	:	

Why is this decision letter being written?

This decision letter is being written in reply to an October 22, 2001, letter we received petitioning our office for an extension of time in which to conduct reclamation of Hiko Bell Mining and Oil Company's project area. The correspondence was submitted by you as President of Hiko Bell Mining and Oil Co. It petitions our office for an extension until December 15, 2001 to accomplish dozer work and to complete the balance of work, including reseeding. This would extend the time to reclaim cited in our August 10, 2001 decision. During the October 18, 2001 on-site, attended by you, Mr. Robert Covington and Peter Sokolosky of this office, it was apparent that none of the work ordered in our August 10, 2001 decision letter had been accomplished nor had of any reclamation been accomplished. The only exception was that during the conduct of work within Mr. Norman Haslem's project area (UTU66354), some of the two-track road which is part of Hiko Bell's project area had been reclaimed.

What variance to prior decisions is granted by this office?

Pursuant to your request, you are to complete all initial reclamation measures as required in prior decision letters on or before April 15, 2002. It is important to that you read and understand the "are there additional requirements as part of this decision?" section below. It addresses some variances to prior decisions as well as addresses variances you requested regarding some requirements in our August 10, 2001 decision letter.

Are there additional requirements as part of this decision?

As part of our granting a variance, the following are additional requirements.

- The requirement to install a fence along the top of the high wall on the east side of the project area is waived only if you are able to back-fill against the high wall in order to create a slope of no steeper than 1:1 on or before December 15, 2001. As cited in our August 10, 2001 decision, the slope of the highwall along the eastern side of the project area shall not be reduced by back-cutting to the east. Fill material within the project area, such as that to be removed from drainages, shall be placed against the highwall as part of recontouring.

If you are unable to reduce the highwall slope by December 15, 2001, you shall install a fence along the east side of the project area on or before December 30, 2001. The fence shall be a 39 inch high net wire topped with a single strand of barbed wire; 4 inches above the net wire. It shall be installed 2 to 4 feet east of the top of the highwall (top of highwall is shown on enclosures 3 and 4) and shall be at least 100 feet long. The fencing shall be removed by the operator within 5 days following the recontouring of the project area.

- On or before December 15, 2001, all sundry [manmade] materials located within the project must be removed from the public lands. This includes, but is not limited to the PVC pipe and sundry materials (see enclosures to our August 10, 2001 decision letter). Materials shall not be buried nor shall installed underground piping or sundry items be left in place. You are responsible for the removal of such to an approved waste disposal facility, along with the clean-up and proper disposal of any spills of fuel, oils, lubricants, antifreeze, battery acids, etc. from equipment used in the conduct of reclamation.

- Your earth working must restore the surface to substantially the same shape as predisturbance contour. Some of the original contour information is depicted on topographic mapping (see figures attached to August 10, 2001 decision). Our office has a collection of 1970's aerial photographs which are available for your review. You are highly encouraged to review such material and to use equipment which is suited to the reclamation Hiko Bell is responsible for.

- At least 2 working days before the commencement of earth work, a Hiko Bell Mining and Oil Company representative shall notify the Vernal Field Office of the date earth work is to begin along with the names of individuals who will be working on location.

- There is a 14 consecutive day limit for camping (including the use of a trailer) in one location on public lands. You should contact a Recreation Planner or our Ranger if you have any questions about camping limits or rules of conduct while camped on public lands.

- In addition to minimum reclamation standards cited in prior decisions, the following shall be accomplished as part of reclamation. The following are slightly modified from the way they appeared in our August 10, 2001 decision letter.

Earthen materials displaced into four drainages as part of operations within the project area shall be excavated so that the drainages are re-established (see dark lines on enclosure 3 to our August 10, 2001 decision shows where drainages are blocked.

The materials removed shall be used in the reshaping of the project area, to approximate original contour. Remember that the two-track heading north into Mr. Haslem's reaped area must be reclaimed by you. You should rip or scarify and seed this two track before removing material from the drainage between your project area and Mr. Haslem's project area.

Mechanized earth moving equipment used in reclamation shall not venture more than one equipment length outside the boundary of the area already disturbed. A Hiko Bell representative shall notify our office no later than 5 working days before the redistribution of top soil. The reshaping effort is subject to periodic inspection.

The stockpiles of topsoil and pit run shown in the disturbed area (see enclosure 4 to the August 10, 2001 letter) shall be redistributed following recontouring of the area.

You are to notify the Vernal Field Office no later than 2 working days prior to the conduct of seeding. The notification shall include the planned date seeding would occur and the method of seeding which is planned; i.e., either broadcast or drill seeding.

Seed applied to public lands must be noxious weed free. You are to obtain a constituents list from the vendor who provides the seed mix which indicates the seed purchased is noxious weed free.

You are to notify the Vernal Field Office no later than 2 working days following seeding. Within 5 working days following seeding, you shall submit to the Vernal Field Office the original or a legible copy of the constituents list from the bag of seed distributed; and the name and address of the vendor who provided the seed.

The above only serves to modify or reiterate the requirements of our prior decisions dated November 14, 2000, May 10, 2001, June 29, 2001 and August 10, 2001. If you have any questions about what is required of you as operator of record, you should contact Peter Sokolosky of this office at 781-4501.

What happens if you fail to comply?

Failure to complete the required reclamation work on or before ^{April 15, 2002} ~~August 1, 2001~~ will result in you being required to submit a plan of operations and mandatory bond for all subsequent operations which otherwise be conducted pursuant to a notice under 43 CFR 3809.1-3.

Can you appeal this decision?

You have the right of appeal to the Utah State Director, Bureau of Land Management (P.O. Box 45155, Salt Lake City, Utah 84145-0155), in accordance with 43 CFR 3809.4. If you exercise this right, your appeal, accompanied by a statement of reasons and any arguments you wish to present which would justify reversal or modification of the decision, must be filed in writing to this office (Bureau of Land Management, Vernal Field Office, 170 South 500 East, Vernal, Utah 84078) within 30 days from the receipt of this decision. This decision will remain in effect during the

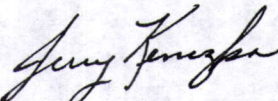
appeal unless a written request for a stay is granted. If you wish to file a petition pursuant to 43 CFR 3809.4(b) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the State Director, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based upon the standards listed below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

Sincerely

for 
David E. Howell
Field Manager

cc: Utah Div. of Oil, Gas, and Mining (S/047/050)
Utah State Office UT93513